



House of Representatives

File No. 787

General Assembly

January Session, 2005

(Reprint of File No. 142)

Substitute House Bill No. 6755
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 20, 2005

**AN ACT CONCERNING PERSONNEL TEMPORARILY ASSIGNED TO
THE DEPARTMENT OF EMERGENCY MANAGEMENT AND
HOMELAND SECURITY AND VOLUNTEERS PARTICIPATING IN
HOMELAND SECURITY DRILLS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 28-1a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) There is established a Department of Emergency Management
4 and Homeland Security, which shall be within the Office of Policy and
5 Management for administrative purposes only. Said department shall
6 be the designated emergency management and homeland security
7 agency for the state. The department head shall be the commissioner,
8 who shall be appointed by the Governor in accordance with the
9 provisions of sections 4-5, 4-6, 4-7 and 4-8 with the powers and duties
10 prescribed in said sections. The commissioner shall possess
11 professional training and knowledge consisting of not less than five
12 years of managerial or strategic planning experience in matters relating
13 to public safety, security, emergency services and emergency response.
14 No person possessing a record of any criminal, unlawful or unethical
15 conduct shall be eligible for or hold such position. Any person with

16 any present or past political activities or financial interests that may
17 substantially conflict with the duties of the commissioner or expose
18 such person to potential undue influence or compromise such person's
19 ability to be entrusted with necessary state or federal security
20 clearances or information shall be deemed unqualified for such
21 position and shall not be eligible to hold such position. The
22 commissioner shall be the chief administrative officer of the
23 department and shall have the responsibility for providing a
24 coordinated, integrated program for state-wide emergency
25 management and homeland security. The commissioner may do all
26 things necessary to apply for, qualify for and accept any federal funds
27 made available or allotted under any federal act relative to emergency
28 management or homeland security.

29 (b) With reasonable conformance to applicable federal statutes and
30 administrative regulations of the Federal Emergency Management
31 Agency and the requirements of the Connecticut emergency
32 operations plan, the commissioner shall organize the department and
33 the personnel of the department as may be necessary for the effective
34 discharge of the authorized emergency management, civil
35 preparedness and homeland security missions, including, but not
36 limited to, the provisions of the Connecticut emergency operations
37 plan and the national plan for civil preparedness. Any department
38 personnel may be removed by the commissioner for security reasons
39 or for incompetence, subject to reinstatement by the Employees'
40 Review Board. The commissioner may enter into contracts for the
41 furnishing by any person or agency, public or private, of services
42 necessary for the proper execution of the duties of the department.
43 Any such contract that has a cost of three thousand dollars or more
44 shall be subject to the approval of the Attorney General.

45 (c) The commissioner shall be responsible for: (1) Coordinating with
46 state and local government personnel, agencies, authorities and the
47 private sector to ensure adequate planning, equipment, training and
48 exercise activities by such personnel, agencies, authorities and the
49 private sector with regard to homeland security; (2) coordinating, and

50 as may be necessary, consolidating homeland security
51 communications and communications systems of the state government
52 with state and local government personnel, agencies, authorities, the
53 general public and the private sector; (3) distributing and, as may be
54 appropriate, coordinating the distribution of information and security
55 warnings to state and local government personnel, agencies,
56 authorities and the general public; and (4) establishing standards and
57 security protocols for the use of any intelligence information.

58 (d) The commissioner may adopt such regulations, in accordance
59 with the provisions of chapter 54, as necessary to implement the duties
60 of the department.

61 (e) The commissioner shall, in consultation with the bargaining unit
62 representing state police, enter into an interagency memorandum of
63 understanding with the Department of Public Safety and the Military
64 Department to provide for (1) the temporary assignment and
65 retrenchment rights of state police and employees of the Military
66 Department to work in the department, and (2) interagency
67 information sharing. [All such assigned employees shall be] Any such
68 personnel temporarily assigned shall act under the [sole] direction of
69 the commissioner. The Department of Public Safety and the Military
70 Department, respectively, shall retain administrative control over such
71 personnel.

72 (f) The commissioner may request and may receive from any
73 federal, state or local agency, cooperation and assistance in the
74 performance of the duties of the department, including the temporary
75 assignment of personnel necessary to perform the functions of the
76 department. Any such personnel temporarily assigned shall act under
77 the direction of the commissioner. The federal, state or local agency
78 shall retain administrative control over such personnel. For purposes
79 of section 5-141d, such personnel temporarily assigned shall be
80 deemed to be acting as state employees while assigned to, and
81 performing the duties of, the department.

82 [(f)] (g) The functions, powers, duties and, as determined to be
 83 necessary by the commissioner, personnel of the Division of Homeland
 84 Security within the Department of Public Safety and the Office of
 85 Emergency Management within the Military Department shall be
 86 transferred to the Department of Emergency Management and
 87 Homeland Security in accordance with the provisions of sections 4-
 88 38d, 4-38e and 4-39.

89 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) For the purposes of this
 90 section, "volunteer organization" means an organization that (1)
 91 provides first responder, rescue or emergency medical transportation
 92 services, or is a volunteer fire company that provides emergency
 93 medical or rescue services, as part of its duties, and (2) relies
 94 exclusively or primarily upon volunteers to provide such services.

95 (b) The Department of Emergency Management and Homeland
 96 Security shall compensate each volunteer with any volunteer
 97 organization that conducts a homeland security drill authorized by
 98 said department that exceeds twenty-four consecutive hours in length
 99 who participates in such drill and is otherwise employed, at the same
 100 rate as such volunteer is compensated in his or her employment in the
 101 public or private sector, provided the payment by said department
 102 shall be reduced by any amount of compensation such volunteer
 103 receives from his or her employer for such drill.

104 (c) In the event any such volunteer is injured, disabled or dies in the
 105 course of any such drill, such volunteer shall be compensated in
 106 accordance with the provisions of chapter 568 of the general statutes to
 107 the same extent that he or she would have been compensated for such
 108 injury, disability or death occurring in the course of his or her
 109 employment in the public or private sector.

| | | |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 28-1a |
| Sec. 2 | <i>October 1, 2005</i> | New section |

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 06 \$ | FY 07 \$ |
|--|-------------|-----------|-----------|
| Comptroller - Adjudicated Claims Account | GF - Cost | Potential | Potential |
| Department of Emergency Management and Homeland Security; Workers' Comp. Claims-Admin. Serv. Dept. | GF - Cost | Potential | Potential |

Note: GF=General Fund

Municipal Impact:

| Municipalities | Effect | FY 06 \$ | FY 07 \$ |
|------------------------|----------------------|-----------|-----------|
| Various Municipalities | STATE MANDATE - Cost | Potential | Potential |

Explanation

The bill makes the state legally liable for the actions of any federal or local government employee who is temporarily assigned to the state Department of Emergency Management and Homeland Security (DEMHS). The state must provide legal representation to any one of these individuals in the event that he or she is subject to a civil action related to the discharge of his or her duties while temporarily assigned to DEMHS. It is anticipated that the Office of the Attorney General could handle any potential caseload increase under the bill without requiring additional resources. However, to the extent that any single action results in a settlement payment or payments, the state could incur a significant cost. The bill also specifies the administrative role of DEMHS with respect to personnel temporarily assigned to the agency. This has no fiscal impact.

The bill makes the Department of Emergency Management and

Homeland Security responsible for reimbursing volunteers who participate in homeland security drills exceeding 24 hours in length at a rate equal to the rate they are compensated in their public or private sector job, less any employer compensation they receive for the drill. This will result in an indeterminate cost to the Department of Emergency Management and Homeland Security, since it is unknown how many volunteers will be eligible for reimbursement, and the number of drills exceeding twenty-four consecutive hours in length is also unknown.¹

The bill also provides volunteers who are injured or die during a homeland security drill exceeding 24 hours in length the same workers' compensation benefits they would have received if these events had occurred in the course of their public or private sector employment. This will increase state and municipal workers' compensation costs if a volunteer injured during a homeland security drill was employed by the state or by a municipality. It is not known how many state or municipal employees are members of the volunteer organizations covered under the bill.

House "A" adds potential costs to the Department of Emergency Management and Homeland Security associated with salary reimbursement for volunteers and potential increases in workers' compensation costs to the state and municipalities.

¹ Currently, of the drills that Connecticut has been involved in, only the recent Top Officials Three Exercise would fit within the provisions of the bill. The U.S. Department of Homeland Security's Top Officials Three Exercise (TOPOFF 3) was conducted April 4-8, 2004 at five venues, including Connecticut.

OLR Bill Analysis

sHB 6755 (as amended by House "A")*

***AN ACT CONCERNING PERSONNEL TEMPORARILY ASSIGNED
TO THE DEPARTMENT OF EMERGENCY MANAGEMENT AND
HOMELAND SECURITY***

SUMMARY:

This bill specifies that the Public Safety and Military departments retain administrative control over state police officers and military personnel they assign to the Department of Emergency Management and Homeland Security (DEMHS) under any interagency memorandum of understanding. Under current law, assigned personnel are under the sole direction of the DEMHS commissioner. The bill limits personnel assignments under the memorandum to temporary assignments.

The bill allows the DEMHS commissioner to request and receive cooperation and assistance, including temporary assignment of personnel, from federal, state, or local agencies to perform the department's functions. Assigned personnel must act under his direction, but the assigning agency retains administrative control over them. For indemnification purposes, they are deemed to be state employees while performing department duties. This means (1) the state will hold harmless assigned personnel who face a civil suit for actions they took in the scope of their employment if the action is not wanton, reckless, or malicious and (2) the attorney general will provide legal defense for them.

The bill also requires DEMHS to compensate volunteers with volunteer organizations who participate in any of the organizations' DEMHS-authorized homeland security drills that last more than 24 hours. The compensation rate must be the same as what they would get in their public- or private-sector jobs, less any employer compensation they receive for the drill. The bill gives volunteers who die or are disabled or injured in the course of any such drill the same workers' compensation benefits that they would have received if these events had occurred in the course of their employment in the public or

private sector.

*House Amendment "A" adds the provision compensating volunteers for work over 24 hours in DEMHS-authorized drills.

EFFECTIVE DATE: Upon passage, except the DEMHS compensation provision takes effect October 1, 2005.

VOLUNTEER ORGANIZATION

The bill defines a "volunteer organization" as one that (1) provides first responder, rescue, or emergency medical transportation services, or is a volunteer fire company that provides emergency medical or rescue services, as part of its duties and (2) relies exclusively or primarily upon volunteers to provide such services.

BACKGROUND

Indemnification of State Employees

Existing law requires the state to save harmless and indemnify any state officer or employee from financial loss and expense from a claim, demand, suit, or judgment from his alleged negligence or deprivation of a person's civil rights or other acts or omissions causing damage or injury. The officer or employee must have acted in the discharge of his duties or within the scope of his employment. The protection does not apply if the conduct is wanton, reckless, or malicious. The attorney general must provide the person's defense unless he determines that it would be inappropriate and he notifies the person. If the attorney general does not provide representation, the state must pay the officer's or employee's reasonable legal fees and costs if a final decision determines that the person acted in the scope of his duties or employment and was not wanton, reckless, or malicious (CGS § 5-141d).

Legislative History

The House referred the bill (File 142) to the Labor and Public Employees, Judiciary, and Government Administration and Elections committees on April 8, 19, and 28, respectively. All reported it favorably without changes.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 22 Nay 0

Labor and Public Employees Committee

Joint Favorable Report

Yea 12 Nay 0

Judiciary Committee

Joint Favorable Report

Yea 39 Nay 0

Government Administration and Elections Committee

Joint Favorable Report

Yea 16 Nay 0